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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

March 8, 2000

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> St., SW, Room TWB-204  
Washington, DC 20554

Re: Ex parte, CC Docket No. 00-4, Application by SBC Communications Inc.,  
Southwestern Bell Telephone Company, and Southwestern Bell Communications  
Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region  
InterLATA Services in Texas

Dear Ms. Salas:

Yesterday, I provided the enclosed materials to Allen Cohen, of Chairman  
Kennard's office, at his request. Two copies of this Notice are being submitted in  
accordance with Section 1.1206 of the Commission's rules.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin M. Joseph".

enc.

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## News Release

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## **AT&T TO ASK FCC TO SUSPEND BELL ATLANTIC'S AUTHORITY TO PROVIDE LONG DISTANCE SERVICE UNTIL SYSTEMS PROBLEMS ARE FIXED**

### ***'Tens of thousands' of orders lost by Bell Atlantic***

#### **FOR RELEASE TUESDAY, MARCH 7, 2000**

WASHINGTON -- AT&T announced today that because of Bell Atlantic's ongoing inability to fix broken systems that serve competitors, it will ask the Federal Communications Commission this week to order prompt remedial action for those systems, and to suspend Bell Atlantic's authority to provide long distance service in New York until that action is completed.

AT&T Chairman C. Michael Armstrong, speaking to state regulators at a conference here, said Bell Atlantic has lost tens of thousands of orders from customers who had chosen AT&T or other carriers offering local phone service in New York. Months later, customers are still denied the carrier, services and prices they'd chosen and competing carriers have had to re-submit orders -- while Bell Atlantic has enjoyed the privilege of long distance entry free from these impediments.

Many orders are never found, such as the case of a Long Island woman who ordered phone service from AT&T in September and cancelled it after waiting five months for her service to be switched. In another example, a New York City attorney actually lost dialtone for more than two weeks when she attempted to switch her local service from Bell Atlantic to another company.

"Bell Atlantic has not even come close to meeting performance levels required by the Telecom Act," Armstrong said, adding that Bell Atlantic was ordered to provide a spreadsheet listing competitors' orders it lost or mishandled during 1999. It was 2,600 pages.

- more -

Armstrong said Bell Atlantic's failures are hurting AT&T's business.

"Our brand is damaged each and every time they fail to provide our customers with service or features in a timely manner," he said. "We also suffer direct financial harm from lost revenues and costly re-works."

Armstrong said AT&T will file a formal complaint with the FCC later this week seeking an order directing Bell Atlantic to fix its systems problems and suspension of its authority to provide long distance service until it demonstrates that its systems permit effective competition, as the Telecom Act requires. But AT&T first will send a letter to Bell Atlantic asking the company to voluntarily stop marketing long distance while it fixes its systems. If that request is turned down, the FCC filing will follow.

Armstrong praised recent actions by the New York Public Service Commission to try to get Bell Atlantic to comply with commitments to fix its systems. The commission last month ordered Bell Atlantic to clear a backlog of tens of thousands of orders stranded since last year, report daily on its progress and come up with long term solutions to replace short term workarounds.

But Bell Atlantic still hasn't cleared the backlog, he said, and has now admitted its systems are broken and that its core software must be replaced "with a new, untested program." Because damage caused by the broken systems is so severe and because no real solution is in sight, AT&T has little choice but to file a complaint with the FCC, Armstrong said.

He added that SBC, in seeking FCC permission for long distance entry in Texas, is making many of the same claims Bell Atlantic made. But SBC started with a lower performance level than Bell Atlantic and recent evidence shows SBC's performance is already deteriorating, he said.

# # #

**NOTE: AT&T will hold a dial-in news conference today at 11 a.m. The dial in number is 800-288-8974. AT&T Senior Vice President Bob Aquilina will give reporters a more detailed overview of the problems facing competitors in New York and take questions. A replay will be available this afternoon at 800-475-6701, access code 506861.**

**Reporters covering the NARUC conference at the Renaissance Washington may participate in the dial-in briefing from Congressional Hall 'A.'**

C. Michael Armstrong  
NARUC  
March 7, 2000  
Washington, D.C.

**Thank you. Good morning. I'm happy to be meeting with you all for the first time.**

**Today, of course, is a special day here in Washington: Super Tuesday – a day that gives a whole new meaning to the term “March Madness.”**

**As important as today is for the candidates, most Beltway insiders know that winning a primary shouldn't be mistaken for winning the general election . . .**

**Just as most of us in the communications industry know by now that passing the Telecom Act shouldn't be confused with delivering competitive markets to customers.**

**And that's the topic I'd like to discuss today.**

- **First, I want to talk with you about my business – where AT&T is going and why.**
- **Then I want to talk with you about your business – which is opening the telecom market.**
- **And then I'd like to look at the critical place where your business and mine come together – in the marketplace – and our joint responsibility to customers.**

**Today we're witnessing a technology explosion in communications driven by three forces: the Internet, broadband, and wireless.**

**No one can doubt the speed at which the Internet is penetrating our lives and reshaping our world.**

**It took radio 30 years to reach its first 50 million people. It took TV just 13 years to do the same. It took the World Wide Web half as much time to reach twice as many people – 100 million.**

**The demands of the Internet have created a near insatiable need for speed. Today it's been estimated that some 280-million hours are wasted every year simply waiting for files to download.**

**Those kinds of numbers put enormous pressure on companies like AT&T to increase the speed and capacity of our networks.**

**And as an industry, we're responding. Today we're installing broadband cable systems with the capacity to transmit 150 years of *The New York Times* over a single fiber in a single second.**

**And these systems are growing at a breakneck rate: 2800 miles of fiber are being installed every hour somewhere in the world, enough to circle the globe twice every twenty-four hours.**

**At the same time that the Internet and broadband are redefining the global communications landscape, we're in the midst of a wireless revolution.**

**It's a revolution where within three years, there will be a wireless phone for every six people on earth -- a billion wireless phones in use throughout the world.**

**A revolution where, by 2003, there will be twice as many wireless phones as homes with personal computers.**

**All this explains what may look like AT&T's shopping spree. Today we're transforming AT&T:**

**From a company that relies on narrowband, to one that makes full use of broadband.**

**From a company that switches circuits, to one that switches packets.  
From a domestic company, to a global communications business.**

**And from a long-distance company to an "any distance, any service, any source" company.**

**We're out to de-commoditize long distance.**

**We're investing in cable to provide broadband connections to homes and businesses.**

**Those broadband connections will allow us to offer customers five new services: Telephony, digital TV, high-speed Internet access, interactive TV, and small business communications.**

**So how are we doing?**

**Today we're in 16 cities with our cable telephony offer.**

**Our goal is 400- to 500-thousand customers by year end. We're at about 20-thousand right now and making good progress.**

**We're installing 2,000 customers a week, and that number continues to grow. Where our people get to speak with the homeowner, we have a 50 percent take rate. And the average sale is from one-and-a-half and two-lines per household.**

**Meanwhile, at the end of 1999, we had more than 200,000 customers for @Home high-speed Internet access.**

**We expect to have more than 700,000 by the end of this year.**

**In many rural as well as urban areas, fixed wireless provides us with a viable alternative to cable.**

**More than simply Plain Old Telephone Service, fixed wireless can provide consumers with four lines, plus megabit-speed always-on data.**

Customers in our Dallas trial are delighted with the service, especially its high-speed data capabilities.

Based on the results of that trial, we plan to enter three major markets with fixed wireless by year end.

Yet even a combination of cable and fixed wireless will allow us to offer a choice of services to only a fraction of this country's communications users.

Without access to the local loop, we still fall short on delivering on the promise of the Telecom Act -- bringing the benefits of real competition to customers throughout the U.S.

So, at least for the near future, it all gets back to an ugly duckling known as the local network.

It may lack the excitement of broadband cable or fixed wireless. But the local loop remains critically important for competitive carriers like AT&T in offering bundled services, including high-speed DSL connections.

And that's why today it's clearer than ever that Telecom Act had it right: open local first.

Congress struck a straightforward deal with the Bell companies: open your local-service market to competition -- real competition -- and then you can get into LD in your home territories.

Unfortunately, some people here in Washington want to turn the Telecom Act on its head. They want to give the RBOCs long-distance data authority without first requiring them to open their local markets.

Data -- including packetized voice -- is about 70 percent of the traffic on the network today; it will be 80 percent next year.

Together, data and IP are the future, and the ultimate carrot to get the RBOCs to open the local loop.

The Tauzin-Dingell bill -- HR 2420 -- would drop that carrot into the RBOCs' laps with no regard for whether they've first opened their markets to competition.

The sequence laid out by the Telecom Act was critical.

Sure, it would break down the artificial walls the MFJ built between local and LD. But only after the RBOCs provide competitors with the same prices and service levels they give themselves.

Congress knew that if parity wasn't part of the deal, the RBOCs would be able to use their monopoly power over the local exchange to pinch off competition.

Because without access to local facilities, no other carrier could provide its customers with a choice of bundled, end-to-end services.

The New York Public Service Commission had it right, too.

- First, it defined access to the local exchange in very specific terms.
- Then it had an independent third party verify RBOC compliance.
- Next, it looked beyond the third-party test for hard evidence of competition in the local market,
- And finally, it required evidence of the RBOC's ability to meet its commitments under real-world conditions.

By general agreement – including AT&T's – Bell Atlantic was the RBOC most likely to succeed at getting this process right.

KPMG Peat Marwick was brought in for third-party verification. They placed orders, and they tracked how well Bell Atlantic filled them. They also tracked orders from real competitors.

There's no question that Bell Atlantic showed promise. Unfortunately, they never lived up to that promise. Maybe it was because they were never fully tested under real market conditions.

Whatever the cause, the end result gives us a kind of "cautionary tale" that shouldn't be repeated.

For example, the law requires parity in operations support. Would-be competitors pointed out for months that Bell Atlantic support systems didn't work.

If Bell Atlantic had waited another couple of months to perfect their systems, they might have had a bullet-proof application.

Instead, they simply wore down both KPMG and the New York commission. Lack of cooperation by Bell Atlantic led KPMG to cut short some testing.

The FCC took Bell Atlantic's promises of future improvement in place of proven performance. Now Bell Atlantic has failed to keep those promises.

I'm reminded of legendary Bronx party boss Ed Flynn. Flynn was fond of saying: "Don't confuse wishes with facts."

We've all been wishing for an open local market for years, and the Telecom Act absolutely demands it.

But it's been held up for so long, I'm afraid we've begun to confuse our wishes with the facts.

What we have in New York today is not an open, competitive market.

AT&T and the other competitive local carriers, the U.S. Department of Justice, and the New York Attorney General all insisted approval was premature.

Unfortunately, it appears now that we -- also -- had it right: Bell Atlantic has not even come close to meeting performance levels required by Telecom Act.

Under the pressure of commercial volumes, their systems collapsed. Tens-of-thousands of customer requests have been lost in Bell Atlantic's systems.

They're unable to switch customers quickly, efficiently or -- in many cases -- at all.

They've promised time and again that they would provision New York customers in 2 to 3 business days.

But they lose and delay so many orders that they haven't come close to keeping their own commitments.

At the end of February, over half of our service orders were stuck in Bell Atlantic systems. Bell Atlantic has come back -- often months later -- to plead with us to re-submit orders they can't find.

Meanwhile, thousands of our customers whose orders are lost are being denied the local and long-distance carrier of their choice.

They're being prevented from receiving the features they want, or the prices they've been promised.

And it's not just our customers -- customers don't get switched to MCI, SPRINT, or RCN either.

Media reports say that since last spring Bell Atlantic has failed to account for more than 70,000 customers who asked to be switched to MCI.

Rosemary Kerns, a housewife on Long Island, ordered service from AT&T on September 29, 1999.

She was still waiting when she cancelled her order on February 7, five months later.

There are other documented cases of customers who tried to switch companies and who lost dial tone for a week or more.

A Manhattan attorney, Kathy Gallagher, ordered service from RCN . . . and was without dial tone for 19 days.

Apparently it's easier to switch parties in a primary election than it is to switch local companies in Bell Atlantic territory.

Just so you don't think these examples are isolated instances, consider this:



At the PSC's order, Bell Atlantic provided spreadsheets showing CLEC service-order troubles in 1999. The printout of un-filled, improperly-filled, or just plain lost orders was 2600 pages long.

These are just the types of problems the Telecom Act required the RBOCs to eliminate before they would be allowed into long distance.

To its credit, the New York Public Service Commission began to take action in February. They issued a four-part emergency order directing Bell Atlantic to fix their broken systems:

- First, they ordered Bell Atlantic to clear its backlog of tens-of-thousands of orders stranded in their systems since last year.
- Second, the PSC directed Bell Atlantic to clear the thousands of backorders that have accumulated since the beginning of this year.
- Third, the commissioners required daily reports from Bell Atlantic to assure the commission that they are providing at least 90 percent of their orders on-time.
- Fourth, the commission ordered Bell Atlantic to come up with long-term solutions to replace the short-term workarounds they've mounted over the past several weeks.

We applaud the commission's action. But we're sorry to report that it's not working.

Bell Atlantic did not clean up the backlogs as they were ordered. Much of the backlog – for AT&T and others – is still waiting to be cleared.

Bell Atlantic did not fix its systems. In fact, it now admits that those systems – the same ones it relied on in its 271 application – are hopelessly broken.

They're so badly flawed that the central software has to be replaced . . . with a brand-new, untested program Bell Atlantic developed on a crash basis -- literally.

Finally, their stop-gap, work-around solutions don't work either. They continue to lose orders. And those they don't lose are late being provisioned.

So despite the New York commission's best efforts, none of the problems we've experienced with Bell Atlantic has been resolved.

That the problems even exist is bad enough. These systems must work reliably if local entry is to become a reality. Slowing the pace and raising the cost of competition serves no legitimate interest.

But the effect these systems failures are having on customers is unacceptable.

People like Rosemary Kerns and Kathy Gallagher – customers who were promised a choice – are losing that choice. And with it, they're losing their confidence – and their patience – with all of us in the industry.

None of the problems impacting the CLECs affect Bell Atlantic's ability to sell in either the local or the long-distance markets in New York. Their problems are confined to their wholesale systems.

Bell Atlantic continues providing local services as usual. And a well-established PIC mechanism gives them unlimited access to the long-distance market.

Unfortunately, AT&T and the other competitive carriers are very much affected by Bell Atlantic's failures.

Our brand is damaged each and every time they fail to provide our customers with services or features in a timely manner. And we suffer direct financial harm from lost revenues and costly reworks.

The damage is severe, and there's no real solution in sight. That's why today we are sending a letter to the chairman of Bell Atlantic asking him to voluntarily suspend marketing long-distance services until they correct these problems.

Unless we have a response within 48 hours, we will file a formal complaint with the Federal Communications Commission.

In it, we will seek to suspend Bell Atlantic's authority to continue marketing long-distance services in New York until they can provide systems that permit the level of competition promised by the Telecom Act of 1996.

We don't like bringing litigation any more than you like resolving it. But Bell Atlantic's failures, magnified by the easy entry they've enjoyed in long distance, leave us no choice.

The 12-million communications customers of New York don't need empty promises or quick fixes.

They need a long-term solution to Bell Atlantic's systems problems to assure fair competition and open local markets.

Meanwhile, history is already showing signs of repeating itself. SBC now has a 271 application before the FCC for the State of Texas.

But SBC has its own set of provisioning problems. The sole difference between SBC and Bell Atlantic is that SBC began with a lower performance level than Bell Atlantic did.

And their performance has only gone down hill since the Texas PUC endorsed their application in December.

The Department of Justice recognized SBC's application was premature, just as they did in New York.

**The DOJ understands that customers will pay the price through reduced choice and diminished competition.**

**FCC Chairman Kennard, who will also be speaking to you, has said that in no area do Americans demand choice more than in telecommunications.**

**Both he and the FCC have always sought a level playing field that would allow true competition to flourish in the local-exchange business. A field where – not un-importantly – consumers would not be hurt.**

**The facts show that while the FCC and others have been hopeful that a level playing field existed, it is an illusion.**

**In fact, when it comes to changing long-distance carriers, we're operating on an eight-lane superhighway that's been built over the last 20 years. Changes happen in a matter of hours.**

**But when it comes to the local-exchange business, we're relegated to a dirt road full of potholes where – as I've just described – a simple change can take months.**

**The irony is that Bell Atlantic built both roads. They're benefiting from one, and we're suffering from the other.**

**And that's exactly why we can't let political pressure force entry into the long-distance market before the conditions of the Telecom Act are met.**

**Because customers are the ones who will pay the price through reduced choice and diminished competition.**

**The communications industry has made important progress over the past four years.**

**Momentous changes are taking place that promise real benefits for customers.**

**We're too far along, and too close to the finish line, to let decisions born of impatience reverse that progress.**

**History has proven the benefits of competition to communications customers.**

**The Telecommunications Act has set the stage for a wave of competitive benefits.**

**We can't afford to let them slip away.**

**And they won't slip away if regulators continue to demand a truly competitive marketplace.**

**If we all stand up for customers and insist that the best of intentions are no substitute for a competitive market.**

**Or, as Boss Flynn would say: "Don't confuse wishes with facts."**

**Thank you.**

\* \* \*

March 7, 2000

Dear Mr. Seidenberg:

As you know, AT&T and other competitive carriers have experienced continuing and severe problems with the provisioning of local service orders due to failures in Bell Atlantic's wholesale support systems. These problems have persisted and worsened since at least December 1999 and have made and continue to make it impossible for AT&T to compete on a level playing field with Bell Atlantic in our efforts to sell both local services and bundles of local and long distance services to New York consumers.

Bell Atlantic's poor performance required AT&T to request expedited resolution of these problems from the New York Public Service Commission on December 23, 1999. However, despite ongoing discussions among AT&T, Bell Atlantic, the New York Public Service Commission and other competitive carriers, Bell Atlantic has not resolved these significant problems, which it has acknowledged reside within its wholesale support systems.

Further, Bell Atlantic has never established an automated order management and tracking capability for its wholesale support processes, even though such capability is a standard operating practice in the telecommunications, banking and other industries that must process large volumes of electronic orders among trading partners. Bell Atlantic's failure to do so has exacerbated the impact of its system failures, because it has caused protracted delays in Bell Atlantic's ability to resolve problems with consumers' orders.

The New York Public Service Commission issued an order on February 11, 2000, which found that "Bell Atlantic's current performance problems . . . if unabated for another month, could undermine the ability of competitors to provide local service in New York State." AT&T's experience since that date confirms this conclusion.

Notwithstanding the New York Public Service Commission's order that Bell Atlantic clear up the entire backlog of pre-February 11, 2000 orders by February 18, Bell Atlantic has failed to clear over 2,500 AT&T orders from that period. Moreover, Bell Atlantic continues to fail to meet established provisioning dates at an unacceptably high rate for orders placed after February 11. All of these problems are serious and, contrary to recent statements from Bell Atlantic representatives, have significant adverse impact not only on our ability to serve customers, but – more important – on the quality, convenience and value of service our customers can obtain.

In recent meetings with the New York Public Service Commission and CLECs including AT&T, Bell Atlantic representatives have confirmed that the OSS systems Bell Atlantic relied upon in support of its Section 271 application cannot meet the service needs of New York consumers. Bell Atlantic representatives have also repeatedly stated that they will be unable to assure CLECs that their orders will be correctly provisioned so long as they continue to use Bell Atlantic's existing OSS systems. Bell Atlantic's recent poor performance confirms that prediction. As a result, Bell Atlantic has proposed to substitute an untested proprietary software product and new hardware into its wholesale support process. In the meantime, Bell Atlantic has attempted to use manual workarounds to process the growing order volumes of CLECs such as AT&T who are attempting to process orders placed by New York consumers. However, these workarounds have not significantly improved the quality of service Bell Atlantic has provided to AT&T and its customers.

AT&T will continue to work with Bell Atlantic to resolve these problems. However, as I am sure you understand, AT&T cannot place its business reputation on the line by transferring its operations to a wholly untested wholesale support system. While we have worked out a testing arrangement agreeable to both AT&T and Bell Atlantic you know, as well as we, that neither firm can yet predict that such untested hardware and software will work correctly under the stress of competitive market conditions.

Critically, Bell Atlantic itself is not subject to any of the problems that the CLECs are experiencing, because Bell Atlantic's retail systems for local customers do not suffer from the same deficiencies as its wholesale systems and the long distance ordering process is well established. Thus, Bell Atlantic has been able to enter the long distance market in New York unfettered by operational constraints. In sharp contrast, Bell Atlantic's system failures have forced AT&T to choose between a process that is admittedly broken and one that has not been proven to work, especially at high volumes. Neither choice is acceptable.

The competitive harm that Bell Atlantic's system is causing to AT&T, New York consumers and the competitive process in general requires prompt, additional remedial action. Given the intolerable delays, costs and degraded service that Bell Atlantic's wholesale system failures continue to impose upon AT&T and other competitive carriers, Bell Atlantic cannot reasonably claim that it is now in compliance with its obligations under Sections 251 and 271 of the Communications Act, the rulings of the New York Public Service Commission and its own commitments. Nor will Bell Atlantic be in compliance with its obligations until all these problems have been cured and AT&T and other CLECs may enroll local customers as quickly and easily as Bell Atlantic can enroll long distance customers.

Accordingly, the law requires, and AT&T demands, that Bell Atlantic agree that it will immediately cease marketing of long distance services in New York and accept no further customers for Bell Atlantic's long distance services until (1) Bell Atlantic's wholesale system problems have been resolved, re-tested and proven to be capable of meeting industry performance standards on a consistent basis, and (2) Bell Atlantic implements an automated order management and tracking system to properly deal with such systems and process failures as do occur. Unless Bell Atlantic agrees to voluntarily suspend all long distance activities immediately, AT&T will have no choice but to seek an order from the Federal Communications Commission directing Bell Atlantic to do so. A copy of the current version of our draft complaint is appended to this letter. If I do not hear from you within 48 hours that Bell Atlantic agrees to comply voluntarily with AT&T's request, AT&T intends to seek prompt relief from the Federal Communications Commission pursuant to Sections 208 and 271(d)(6) of the Telecommunications Act.

Signed,

Robert Aquilina  
Senior Vice President  
AT&T Consumer Services